UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/635,624	08/10/2000	Paul A. Firestone		5848

20311 7590 12/17/2004

MUSERLIAN, LUCAS AND MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

EXAMINER	
FRANKLIN, JAMARA ALZAIDA	
ART UNIT	**PAPER NUMBER**
2876	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/635,624
Filing Date: August 10, 2000
Appellant(s): FIRESTONE, PAUL A.

Paul A. Firestone
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/07/04.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The rejection of claims 11, 13, 15, 16, 18, 20, 22, 23, 25, and 26 stand or fall together.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,734,343	URBISH ET AL.	3-1998
5,819,234	SLAVIN ET AL.	10-1998
5,587,575	LEITNER ET AL.	12-1996

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 11, 13, 15, 16, 18, 20, 22, 23, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urbish et al. (US 5,734,343) (hereinafter referred to as 'Urbish') in view of Slavin et al. (US 5,819,234) (hereinafter referred to as 'Slavin') and Leitner et al. (US 5,587,575) (hereinafter referred to as 'Leitner').

Urbish teaches a way to eliminate the tollbooth by eliminating the need for vehicles to slow or stop and deposit toll payments at the toll booth (col. 4, lines 46-58). A plurality of labels 15 are affixed in a variety of different locations on a vehicle 10 (col. 2, lines 45-51). The label contains information of a fixed nature, for example, the vehicle identification number, in a coded form. Bar codes have been found to be the label which is most machine readable, however, icons and alphanumeric text are also quite readable and may be used effectively. These various types may be used singly or in combination in the identification label (col. 3, lines 39-51). A detector 25 is used to pick up information (including identification number) about the vehicle 10 that is read from the label 15 as the vehicle and label pass under a light source 20. The identification number is then used to assess tolls on the vehicle as it passes a certain location (col. 4, lines 10-29).

Urbish lacks the specific teaching of establishing an account with the identification code at a central agency and transferring data containing the identification code from the reader to the central agency.

Slavin teaches an account corresponding to a transponder 30 and unique tag number for charging toll. The account is established at a Customer Service Center 72 (col. 5, lines 53-60).

One of ordinary skill in the art would have readily recognized that establishing an account to be charged against would have been beneficial to the invention of Urbish since an account could have served as a established source for recording the charges made against the vehicle to which the account is associated. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Urbish with the aforementioned teachings of Slavin to help maintain a history of tolls collected.

Urbish/Slavin lack the teaching of moving readers.

Leitner teacher portable readers for use by police or traffic officials to scan a code that has been attached to a vehicle (col. 3, lines 18-20 and lines 60-62).

One of ordinary skill in the art would have readily recognized that moving the reader in conjunction to the code would have been beneficial to the invention of Urbish/Slavin for allowing the code to be read in a variety of conditions and situations including a case where the vehicle to which the code is affixed is located in an area not equipped for a fixed reader. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Urbish/Slavin with the moving reader as taught by Leitner. Furthermore, the notion that a device can be made movable or portable is an obvious improvement upon the device unless there are new and unexpected results.

(11) Response to Argument

In response to the argument that the cited references do not teach or suggest the parallel exchange of information between a mobile reader and a central agency, the examiner submits that the claims do not cite the parallel exchange of information between a mobile reader and a central agency. As indicated on page 7, lines 19-21 of the appeal brief, the argument is made that independent claims 11 and 18 recite a parallel, two-way communication system between a mobile reader and a central agency. Instead, independent claims 11 and 18 cite a method and system, respectively, for communicating the vehicle identifier to the central agency and communicating the information in the central agency to the mobile and stationary reader.

Furthermore, the examiner relies upon the Slavin reference to teach the communicating of data containing the identification code from the reader to the central agency and communicating the information in the central agency to the mobile and stationary reader. Slavin teaches "[e]ach vehicle account has associated with it a pre-paid toll credit and the toll amount is subtracted from the credit. Normally the RCS's communicate with a toll plaza computer[s] 32 which operates in conjunction with and periodically communicates with a remote and centrally located computer 40 located at a Customer Service Center 72, which updates the local plaza computer 32 as to the credit balances of the different vehicle accounts. When a vehicle has been properly detected and the toll amounts has been charged, the RCS's 24, 26, 28 have the means to operate appropriate signaling lights 34 to indicate that the transaction has been completed." (col. 5, lines 53-64)

The examiner submits that the Slavin reference shows that the vehicle identifier (unique tag number) is communicated from the reader (Roadside Collection Station (RCS) 24, 26, 28) to the central agency (computer 40 located at a Central Service Center 72) and information (indication that the transaction has been completed) in the central agency is communicated to the reader.

The Leitner reference is relied upon to teach the mobile reader wherein the Urbish and Slavin references teach stationary readers. Urbish teaches "[t]he code is in the form of a string of alpha-numeric characters and/or a bar code. Thus, each code reading means 14 includes a bar code reader 24 connected to a portable unit 26" and "[a]uthorized traffic officials or police, for example, manning road blocks, are each issued with a code reading means 14. When a vehicle is stopped at the road block, the code of the vehicle is scanned using the scanner 24 and the code is displayed on the display 30." (col. 4, lines 13-19 and lines 62-66)

The Leitner reference teaches the reading of a vehicle identifier with a mobile reader (bar code reader 24 connected to a portable unit 26) when the vehicle is stationary.

In response to the argument that the cited references do not teach or suggest issuing a mandatory vehicle identifier by the governmental agency that issues the vehicle's registration and compiles information concerning the vehicle, the examiner submits that the label 15 of the Urbish invention are issued by a governmental central agency that may issue a vehicle registration. The label 15 contains a vehicle identification number (VIN) which is issued by a vehicle manufacturer. Because the manufacturer issues the VIN which is needed for a vehicle to be issued a vehicular registration, the manufacturer indirectly issues a vehicular registration. Therefore, the manufacturer issues both the label 15 and the vehicular registration.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jamara A. Franklin
Examiner
Art Unit 2876

JAF
December 9, 2004

Conferees

Michael G. Lee

MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Georgia Epps SPE AU 2873

PAUL A FIRESTONE
88 CENTRAL PARK WEST
NEW YORK, NY 10023